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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,905	12/27/2000	David Steading	36968/198824 (BS00431)	5246
7590 11/30/2005 Scott P. Zimmerman, PLLC P. O. Box 3822 Cary,, NC 27519			EXAMINER LAYE, JADE O	
			ART UNIT 2617	PAPER NUMBER

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/748,905

Applicant(s)

STEADING ET AL.

Examiner

Jade O. Laye

Art Unit

2617

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 21-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

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### *Specification*

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested the Applicant insert language which is directed to “packaging” of programs.

### *Claim Objections*

2. Claim 4 is objected to because it refers back to Claim 4. For the purposes of examination, it is assumed Applicant intends for Claim 4 to refer back to Claim 1.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-13, 15-17, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Schneidewend et al* (US Pat. No. 6,249,320) in view of *Knudson et al.* (US Pat. No. 6,016,141).

Claim 1 recites a method for allowing programming providers to offer subscribers programming events comprising limitations which are too numerous to recite herein. However, each limitation will be addressed in turn. As to Claim 1, *Schneidewend et al* disclose an electronic programming guide (“EPG”) having a programming grid which simultaneously displays an “NBC” wrapper (component 1210 of Fig. 12), a package of programming (i.e., various nbc channels) and its associated events (i.e., various nbc shows), and the start and stop times of said associated events. Moreover, a user is allowed to scroll the channels and events within each channel. (Abstract; Fig. 12 & 13; Col. 1, Ln. 65-Col. 2, Ln. 13; Col. 11, Ln. 49-Col. 12, Ln. 26).

However, *Schneidewend* fails to teach the use of packages as defined on page 13 of Applicant's specification. As discussed in *In re Paulsen*, applicant is entitled to be his or her own lexicographer and may rebut the presumption that claim terms are to be given their ordinary and customary meaning by clearly setting forth a definition of the term that is different from its ordinary and customary meaning. 30F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994). "Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim." *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999). Therefore, as defined by the Applicant, the Examiner interprets "packages" to mean "a preassembled grouping of individual events to be sold as a single package." (Pg. 13, Spec.).

*Schneidewend* fails to specifically teach the packages displayed in Figure 12 were sold as a single package. However, within the same field of endeavor, *Knudson et al* disclose a similar system which teaches the use of packaged pay programming was well known in this art at the time of Applicant's invention. (Col. 1, Ln. 29-40). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of *Schneidewend* and *Knudson* in order to provide a system which supplies information on pay program packages and facilitates the ordering of such packages.

Claims 8, 10, and 15 correspond to Claim 1. Thus, each is analyzed and rejected as discussed previously.

As to Claim 2, *Schneidewend* further teaches combining the events that are related by NBC (i.e., source). (Fig. 12). Accordingly, the combined systems of *Schneidewend* and *Knudson* disclose all limitations of Claim 2.

Claim 9 corresponds to Claim 2. Thus, it is analyzed and rejected as previously discussed.

As to Claim 3, *Schneidewend* (Fig. 12) displays one package and its associated events, but fails to specifically teach the system is capable of displaying numerous packages and their associated events. However, this would have been an obvious variant of *Schneidewend*'s disclosure. Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to modify the combined system *Schneidewend* and *Knudson* in order to provide an EPG which is more user friendly.

Claim 16 corresponds to Claim 3. Thus, it is analyzed and rejected as previously discussed.

As to Claim 4, *Schneidewend* further teaches the EPG allows for the highlighting of programs and "minor channels." (Col. 11, Ln. 49-Col. 12, Ln. 26; Fig. 12). But, *Schneidewend* fails to specifically disclose whether the EPG also allows for the highlighting of the "major channels" (i.e., wrappers). However, in light of this disclosure, such a limitation would be an obvious variant. Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to modify the combined system *Schneidewend* and *Knudson* in order to provide an EPG which allows for a more user-friendly selection of channels.

Claim 18 corresponds to Claim 4. Thus, it is analyzed and rejected as previously discussed.

As to Claim 5, *Schneidewend* further displays the EPG is capable of expanding to show the channels which are associated with each event (i.e., 12-1, 12-2, etc.). (Fig. 12). Accordingly, the combined systems of *Schneidewend* and *Knudson* disclose all limitations of Claim 5.

As to Claim 7, *Schneidewend* further teaches the time and channel info related to the various packages are displayed. (Fig. 12). Accordingly, the combined systems of *Schneidewend* and *Knudson* disclose all limitations of Claim 7.

As to Claim 11, *Schneidewend* further discloses the use of a remote control. (Col. 3, Ln. 37-40). Accordingly, the combined systems of *Schneidewend* and *Knudson* disclose all limitations of Claim 11.

As to Claim 13, *Knudson* further teaches the system provides additional information describing the pay per view events. (Col. 4, Ln. 66-Col. 5, LN. 16; Fig. 3). Accordingly, the combined systems of *Schneidewend* and *Knudson* disclose all limitations of Claim 13.

As to Claim 19, *Schneidewend* further discloses the use of an expanded package (as discussed under rejection of Claim 7), but fails to disclose the remaining limitation. However, the system of *Knudson* allows the user to highlight an event to initiate a purchase. (Col. 6, Ln. 42-51). Accordingly, the combined systems of *Schneidewend* and *Knudson* disclose all limitations of Claim 19.

4. Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Schneidewend et al* in view of *Knudson et al* as discussed under Claim 1, and further in view of *Ellis et al*. (US Pat. No. 6,604,240).

Claim 6 recites the method of Claim 1, wherein the EPG further comprises a collapsed mode in which only time information concerning the packages are displayed. As discussed above, the combined systems of *Schneidewend* and *Knudson* disclose all limitations of Claim 1, but fail to disclose those of Claim 6. However, within the same field of endeavor, *Ellis et al*

disclose a similar system which allows for a collapsed mode in which only time information concerning a package is displayed. (Fig. 11). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of *Schneidewend*, *Knudson*, and *Ellis* in order to provide a system which enhances the ability of a service provider to supply users with information regarding available programming.

Claim 12 corresponds to Claim 6. Thus, it is analyzed and rejected as previously discussed.

5. Claims 14, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Schneidewend et al* in view of *Knudson et al* as applied to claim 10 above, and further in view of *Rowe et al*. (US Pat. No. 5,812,123).

Claim 14 recites the system of Claim 10, wherein when a package comprises non-contiguous events, the processor implementing commands to the navigator that scrolls to a next time and a next channel of an associated event within a package. As discussed above, the combined systems of *Schneidewend* and *Knudson* disclose all limitations of Claim 10, but fail to specifically recite the limitations of Claim 14. However, within the same field of endeavor, *Rowe et al* disclose a similar EPG which displays non-contiguous programming packages. (Fig. 2). When displayed, the system will allow a user to scroll to a next channel and time of another associated event in a package. For example, in Figure 2, the user viewing the Sports package is allowed to scroll from Tuesday's NBC Channel Seattle game to Wednesday's Access Channel Lincoln HS game. Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of *Schneidewend*, *Knudson*, and



*Rowe* in order to provide a system which allows a user to efficiently scroll non-contiguous programming occurring on differing channels.

Claim 17 corresponds to Claim 14. Thus, it is analyzed and rejected as previously discussed.

Claim 20 contains limitations which mirror those of Claim 11. Thus, it is analyzed and rejected as discussed therein.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. *LaRocca et al* (US Pat. No. 6,314,572) disclose an EPG system which supplies various programming packages to an end user.
- b. *Chapuis et al* (US Pat. No. 6,023,267) disclose a graphical user interface which simultaneously displays channel wrappers and contents.
- c. *LaJoie et al* (US Pat. No. 5,850,218) disclose an EPG which displays non-contiguous programming.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Jade O. Laye  
November 17, 2005.



VIVEK SRIVASTAVA  
PRIMARY EXAMINER